

1 MICHAEL BAILEY  
2 United States Attorney  
3 District of Arizona  
4 MICHAEL A. AMBRI  
5 Assistant U.S. Attorney  
6 State Bar No. 021653  
7 United States Courthouse  
8 405 W. Congress Street, Suite 4800  
9 Tucson, Arizona 85701  
10 Telephone: 520-620-7300  
11 Email: michael.ambri@usdoj.gov  
12 Attorneys for Defendant United States of America

13  
14 IN THE UNITED STATES DISTRICT COURT  
15 FOR THE DISTRICT OF ARIZONA

16 Edward J. Gladney,  
17  
18 Plaintiffs,  
19  
20 vs.  
21  
22 United States of America,  
23  
24 Defendant.

**4:17-CV-0427-DCB**

**MOTION TO FILE ATTACHMENTS  
TO EXHIBITS UNDER SEAL**

25 Pursuant to Local Rule of Civil Procedure 5.6, Defendant requests leave to file  
26 under seal Attachments A, B, C and I to Exhibit 2, and Attachments D, E, F, G, H to Exhibit  
27 3 of its Statement of Facts. The documents are as follows:

28 **EXHIBIT 2**

- Attachment A: Report of investigation of Plaintiff's sexual assault allegations. The report contains information concerning the criminal histories Plaintiff and the alleged assailant; identifying information of Plaintiff, the alleged assailant and witnesses; photographs; information concerning BOP investigatory procedures; and information concerning inmate transfer. Public disclosure of the information could put the inmates in jeopardy of harm in their penal institutions and divulge investigatory methods of the BOP.

- Attachment B: Medical record relating to Plaintiff, which contains Plaintiff's identifying and medical information. Medical record is considered to be personal and

1 protected from public disclosure outside those involved in the litigation.

2 • Attachment C: Psychology Services record relating to Plaintiff. The  
3 document is a record of mental health services provided to Plaintiff and is considered to  
4 be personal and protected from public disclosure outside those involved in the litigation.

5 • Attachment I: Bureau of Prisons staffing guideline. The document contains  
6 confidential information divulging how BOP staffs its facilities. Public disclosure of the  
7 information would reveal BOP's means and methods and would educate inmates about  
8 the specific resources and methods employed to maintain security and order in the prison,  
9 enabling inmates to identify and exploit weaknesses in the system and circumvent the  
10 facility's security measures.

11 EXHIBIT 3

12 • Attachment D: Incident Report concerning a disciplinary matter of Plaintiff.  
13 Disclosure of the incident report containing details of the disciplinary matter, if  
14 disseminated within Plaintiff's facility, could subject Plaintiff to potential harm.

15 • Attachment E: Psychology Services record relating to Plaintiff. The  
16 document is a record of mental health services provided to Plaintiff and is considered to  
17 be personal and protected from public disclosure outside those involved in the litigation.

18 • Attachment F: Incident Report concerning a disciplinary matter of Plaintiff  
19 involving another inmate. Disclosure of the incident report containing details of the  
20 disciplinary matter, if disseminated within Plaintiff's facility, could subject Plaintiff and the  
21 other inmate to potential harm.

22 • Attachment G: Report of disciplinary proceeding and disposition  
23 concerning Plaintiff and involving other inmates. The report containing details of the  
24 disciplinary matter and identifying those involved, if disseminated, could subject the  
25 inmates to potential harm.

26 • Attachment H: Psychology Services record relating to Plaintiff. The  
27 document is a record of mental health services provided to Plaintiff and is considered to  
28 be personal and protected from public disclosure outside those involved in the litigation.

Filing under seal is appropriate to protect medical or mental health information or to prevent potential improper use of the information. See *B2B CFO Partners, LLC v. Kaufman*, 2011WL6297930, \*3 (D. Ariz. 2011) (citing *Foltz v. State Farm*, 331 F.3d 1122, 1135 (9<sup>th</sup> Cir. 2003)); see also *Kamakana v. Honolulu*, 447 F.3d 1172, 1178 (9<sup>th</sup> Cir. 2006)); *Williams v. Nevada Dep't of Corr.*, No. 2:13-CV-941-JAD-VCF, 2014 WL 3734287, at \*1 (D. Nev. July 29, 2014) (citing *San Ramon Reg'l Med. Ctr., Inc. v. Principal Life Ins. Co.*, No. C 10-02258 SBA, 2011 WL 89931, at \*1 n. 1 (N.D. Cal. Jan. 10, 2011); *Abbey v. Hawaii Emp'r Mut. Ins. Co.*, Civil No. 09-000545 SOM/BMK, 2010 WL 4715793, at \*1-2 (D. Haw. Nov. 15, 2010); *Wilkins v. Ahern*, No. C 08-1084 MMC (PR), 2010 WL 3755654, at \*4 (N.D. Cal. Sept. 24, 2010); *Lombardi v. Tri West Healthcare Alliance Corp.*, 2009 WL 1212170, at \*1 (D. Ariz. May 4, 2009)).

The attachments are lodged in electronic form. A proposed order is submitted herewith.

RESPECTFULLY SUBMITTED this 20<sup>th</sup> day of May, 2019.

MICHAEL BAILEY  
United States Attorney  
District of Arizona

/s/ Michael A. Ambri  
MICHAEL A. AMBRI  
Assistant U.S. Attorney  
Attorneys for Defendant

Copy of the foregoing served by first class mail this 21<sup>st</sup> day of May, 2019, to:

Edward J. Gladney  
No. 80179-279  
USP Coleman II  
P.O. Box 1034  
Coleman, FL 33521

/s/ P. Vavra  
Motion to Seal